

**18A.110 Personnel secretary -- Regulatory authority -- Resolution of conflicting provisions of law.**

- (1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:
  - (a) Applications and examinations;
  - (b) Certification and selection of eligibles;
  - (c) Classification and compensation plans;
  - (d) Incentive programs;
  - (e) Lay-offs;
  - (f) Registers;
  - (g) Types of appointments;
  - (h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and
  - (i) Employee evaluations.
- (2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.
- (3)
  - (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and
  - (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.
- (4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.
- (5)
  - (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
  - (b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
  - (c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.
- (6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.
  - (a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

- (b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;
  - (c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and
  - (d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (7) The administrative regulations shall provide:
- (a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;
  - (b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:
    - 1. The relative levels of duties and responsibilities of various classes of positions;
    - 2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
    - 3. The state's financial resources.Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;
  - (c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their

respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

- (d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;
- (e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;
- (f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;
- (g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);
- (h) For lay-offs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;
- (i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;
- (j) For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:
  - 1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
  - 2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;
  - 3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;
  - 4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board

for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;

5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and
  6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and
- (k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.
- (8) For any individual hired or elected to office before January 1, 2015, and paid through the Kentucky Human Resources Information System, the Personnel Cabinet shall not require payroll payments to be made by direct deposit or require the individual to use a Web-based program to access his or her salary statement.
- (9) To the extent that KRS 16.010 to 16.199 and administrative regulations promulgated by the commissioner of the Department of Kentucky State Police under authority granted in KRS Chapter 16 conflict with this section or any administrative regulation promulgated by the secretary pursuant to authority granted in this section, the provisions of KRS Chapter 16 shall prevail.

**Effective:** July 15, 2016

**History:** Amended 2016 Ky. Acts ch. 109, sec. 10, effective July 15, 2016; and ch. 110, sec. 11, effective July 15, 2016. -- Amended 2015 Ky. Acts ch. 25, sec. 2, effective June 24, 2015. -- Amended 2000 Ky. Acts ch. 501, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 154, sec. 25, effective July 15, 1998; ch. 487, sec. 2, effective July 15, 1998; and ch. 540, sec. 2, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 486, sec. 35, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 309, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 203, sec. 3, effective July 15, 1988; and ch. 414, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 494, sec. 17, effective July 15, 1986. -- Repealed, reenacted, and amended as KRS 18A.110, 1982 Ky. Acts ch. 448, sec. 22, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 269, sec. 4, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 86, sec. 5, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 110, sec. 1; ch. 162, sec. 5; and ch. 308, sec. 12. -- Created 1960 Ky. Acts ch. 63, sec. 9.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059

**Formerly codified as** KRS 18.210.

**Legislative Research Commission Note** (7/15/2016). This statute was amended in 2016 Ky. Acts ch. 109, sec. 10 and ch. 110, sec. 11. 2016 Ky. Acts ch. 110, sec. 15 provided that ch. 110 takes precedence over ch. 109. Chapter 110 was also the later-passed bill. Therefore, 2016 Ky. Acts ch. 110, sec. 11 has been codified and 2016 Ky. Acts ch. 109, sec. 10 has not.

**Legislative Research Commission Note** (7/15/98). This section was amended by 1998

Ky. Acts chs. 154, 487, and 540. Where these Acts are not in conflict, they have been codified together. Where a conflict exists between Acts chs. 154 and 540, Acts ch. 540, which was last enacted by the General Assembly, prevails under KRS 446.250.